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## NOTES.

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### COMMENT ON TARBELL'S "STUDY OF THE ATTIC PHRATRY."

I desire to offer a few comments on Professor Tarbell's study of the Dekeleian Phratry-Decree, which appeared in the number of this Journal for June, 1889 (pp. 135-53). It should be pointed out that Köhler's restoration of the last two lines of *A* gives 31 and 29 letters in each, respectively, instead of 30, and is therefore possibly wrong. Pantazidis restores 30 letters to the last line by reading ὁ ἱερ|εὺς τοῦ Δεκελείων οἴκου. τῷ Διὶ τῷ Ἐρκεῖω and ὁ ἱερεὺς τῶν Δημοτιωνίδων would give the right number. I only mention this as a possibility.

*B-51. μαρτυρῶ (ὃν εἰσάγει ἐαυτῷ υἱόν) εἶναι τοῦτον κ. τ. λ.* The words bracketed are not part of the oath, but a parenthetical explanation. The "his lawful son" is wrong. "I swear that this child (the child whom he is presenting as his son) is born in lawful wedlock." The oath may apply to the introduction of adopted children also: see Isaïos, VII. 16: ἔστι δ' αὐτοῖς νόμος ὁ αὐτός, ἐάν τέ τινα φύσει γεγονότα εἰσάγη τις ἐάν τε ποιητόν, ἐπιτιθέναι πίστιν κατὰ τῶν ἱερῶν ἢ μὴν ἐξ ἀστῆς εἰσάγειν καὶ γεγονότα ὀρθῶς.

The weak point in Mr. Tarbell's comment is his explanation of *A*, line 30—the appeal to the Demotionidai. No one who reads through the document without prejudice, and in happy ignorance of the theories of German scholars, can possibly believe that the Demotionidai are identical with the *phrateres*—that the court of appeal is identical with the court from the decision of which appeal is made. Mr. Tarbell says (p. 152), "the years that have elapsed since he was on trial before disguise a little the inappropriateness of the word ἐφίημι;" but I am sure that, when I take the privilege, which I think he is wrong in conceding to other suitors, and appeal from himself to himself, he will reverse his decision.

This inscription, one other, and the texts of the orators, are the authorities on which we should base our view as to the constitution of the Attic phratries. In such matters we should begin by shutting our eyes to lexicographers, new and old, and be especially shy of hand-books.

A word, now, as to Mr. Tarbell's correct remark, that the laws of different phratries differed. At least three passages of Isaïos confirm this: (1) III. 76, from which it appears that not all phratries enforced the enrolment of daughters (Mr. Tarbell's remark on p. 153 should be therefore corrected); (2) VII. 16 (already referred to), from which we may conclude that not all phratries required the legitimacy of adopted sons to be proved; (3) VIII. 18 (see Reiske's note). Not all phratries required *γαμηλίαν εἰσφέρειν* on the marriage of a member.

There is no difficulty in the parts of this document which relate to the *εἰσαγωγή* or *ἀνάκρισις*, which was contemporaneous, and indeed identical, with the sacrifice of the *κουρείον* (in Isaïos, VI. 22, *ἀπηνέχθη τὸ κουρείον* is equivalent to "the child was rejected"). We learn, from B-13-21, that the *thiasoi*, from which the three witnesses at the *ἀνάκρισις* were drawn, were very small bodies: they must have comprised only the immediate relatives of the applicant. In the case of another phratry (Isaïos, *ibid.*), it was in the power of the applicant's only son to prohibit the *εἰσαγωγή*. In the present case, if one son were the only other member of the applicant's *thiasos*, his opposition could be made ineffectual both at the *ἀνάκρισις* and at the *διαδικασία*.

It seems to me to be established by the texts from the orators quoted by Sauppe (*De Phratriis*, p. 8) that the *γεννήται* were a more extensive body than the *φράτερες*. The speaker in Demosthenes LVII. 21 f., to prove that his father was an Athenian citizen, summons first his relations (*συγγενεῖς*), then his *φράτερες*, then his *γεννήται*, and then his *δημόται*. In the peroration of the same speech (67) we have the same order.<sup>1</sup> In Isaïos VII. 16, the *φράτερες* and *γεννήται* are

<sup>1</sup> I doubt if the passage be right as it stands. The speaker is recapitulating the evidence; to make his recapitulation additionally effective he examines himself by the formula used in the *anakrasis* of the nine archons. Two slightly divergent versions of this formula have reached us (POLLUX, VIII. 85, and *Lex. Cantab.*, p. 670, both quoted in full by SAUPPE, *Ibid.*). It consisted of a series of questions, probably as follows: (1) Who was your father? (2) Were your ancestors on both sides, for three generations, Athenians? (3) What is your deme? (4) Have you altars of Zeus Herkeios and Apollo Patroos? *etc.* The speaker here asks himself and answers question (1); he then goes on, not to ask directly, but to answer implicitly, the other questions, with regard, however, not to himself but to his father, in order to adapt himself to the form in which the evidence was actually taken (see sections 20 f). *οἰκεῖοι τινες <εἶναι> μαρτυροῦσιν αὐτῷ*; (sc. ὅτι πολίτης ἦν). *πάνυ γε πρῶτον μὲν γε τέτταρες ἀνεψιοί, εἴτ' ἀνεψιαδοῦς, εἴθ' οἱ τὰς ἀνεψίας λαβόντες αὐτῷ*: so far he is answering question (2). *εἶναι* must, I think, be expunged, for it will be seen that, if it be retained, *ταύτης τινες οἰκεῖοι μαρτυροῦσιν* in the corresponding question relat-

mentioned as acting together, and having the same laws<sup>2</sup> and a κοινὸν γραμματεῖον. It would be difficult to tell from this passage alone if the φράτερες or the γεννήται were most extensive, did not Demosthenes enlighten us.<sup>3</sup> If the γεννήται were a wider and less intimate association than the φράτερες, and if their laws were binding on the latter, it is not only natural, but necessary, to suppose that the Δημοτιωνίδαι here are γεννήται.

For the διαδικασία, of which *A* treats, the passage of Isaios (VII. 16) is so important that it must be quoted in full: ἔστι δ' αὐτοῖς νόμος ὁ αὐτός, ἔάν τε <τινα> φύσει γεγονότα εἰσάγη τις ἔάν τε ποιητόν, ἐπιτιθέναι πίστιν κατὰ τῶν ἱερῶν ἢ μὴν ἐξ ἀστῆς εἰσάγειν καὶ γεγονότα ὀρθῶς, καὶ τὸν ὑπάρχοντα φύσει καὶ τὸν ποιητόν· ποιήσαντος δὲ τοῦ εἰσάγοντος ταῦτα μηδὲν ἦττον διαψήφίζεσθαι καὶ τοὺς ἄλλους· κἄν δόξῃ, τότε εἰς τὸ κοινὸν γραμματεῖον ἐγγράφειν, πρότερον δὲ μὴ· τοι αὐτὰς ἀκριβείας ἔχει τὰ δίκαια τὰ παρ' αὐτοῖς. The first and in some cases the only step a father had to take in order to get his son admitted to a phratry was the εἰσαγωγή, accompanied by the sacrifice of the κουρεῖον. In the case of this phratry, the father had to swear that the son was born in lawful wedlock, and it is to be assumed that, if he swore this, he was allowed to offer the κουρεῖον and the εἰσαγωγή was accomplished. But, in order that it should be ratified by registration in the common books of the γεννήται and φράτερες, it was necessary that the votes of the members should be taken. We do not learn if the vote here was taken on the day of the κουρεῶτις (as ap. Demosth. XLIII. 14) or after any interval of time. This was regarded as a stringent law, and

ing to his mother (68) must be taken in the same sense, and then φράτερες τῶν οἰκείων ταῦτα (or ταῦτὰ?) μεμαρτυρήκασιν means φράτερες τῶν οἰκείων μεμαρτυρήκασιν οἰκεῖοι εἶναι, which is nonsense. It is evident that, in the concluding clause in 67, εἰθ' οἱ δημόται, κ. τ. λ., there is, if not actually an answer, at least an allusion to question (3). It follows, that the intervening words must contain an answer to question (4). The phrase Ἀπόλλωνος πατρῷου καὶ Διὸς ἑρκείου γεννῆται is, I think, an impossible one. The sense requires εἴτα φράτερες <εἴτ'> Ἀπόλλωνος πατρῷου [κοινωνοῦντες] καὶ Διὸς ἑρκείου γεννῆται? I think some such alteration is supported by the fact, that the order in which the two gods are usually mentioned is here inverted.

<sup>2</sup> This is quite evident from the passage. Anyone consulting it hastily might think that the conclusion was drawn from a mistaken interpretation of νόμος ὁ αὐτός (see Tarbell, p. 146 at the foot).

<sup>3</sup> In this speech of Isaios (27), γεννήτας should be substituted for συγγενεῖς. The συγγενεῖς had no register. It is impossible that the terms should be here used synonymously.

evidently, in the case of some phratries, the father's word on oath, and a compliance with the necessary ceremonies, was all that was required ; there was no *διαψήφισις*. The law of the Demotionidai was still more stringent. Not only had the father's oath at the *εἰσαγωγή* to be supported by three witnesses, but the *διαψήφισις* or, as it is here called, *διαδικασία* took place a year after the sacrifice of the *κουρείον*, so that the opposition had plenty of time to prepare their case. If we once recognize that the Demotionidai are *γεννῆται*, and not *φράτερες*, there is nothing unintelligible in A, though there are many points in regard to which we desire further information. The term *ὁ Δεκελείων οἶκος* certainly awaits illustration. It is in so far synonymous with the phratry that the priest of Zeus Phratrios, who is elsewhere spoken of as *ὁ ἱερεὺς* simply, is, in line 41, called *ἱερεὺς τοῦ Δεκελείων οἴκου*, to distinguish him, probably, not so much from the priest of the Demotionidai, who, if he existed, was not a priest of Zeus Phratrios, as from the priest or priests of other phratries which were comprised in the Demotionidai, and whose members took part in the voting on this occasion.<sup>4</sup> A really difficult question is : Why is he alone, and not the phratriarch also, responsible for the fine? This is certainly significant and not fortuitous. An answer is demanded. I do not know if I am right in suggesting the following. The responsibility for the fine was a check on malpractices. The phratriarch is made responsible for the other fines because it was his duty to give the votes (*διδόναι τοὺς ψήφους*). In this case, it was not the phratriarch, but an officer of the Demotionidai, who put the question. No responsibility therefore attached to the phratriarch on this account. The priest is made responsible because he did influence the decision in so far as the appointment of the five *συνήγοροι*, no doubt, rested largely with him. The fact that the phratriarch is exempted shows that he had no voice in their appointment and that the *Δεκελείων οἶκος* was a religious not a civil body, representative of, or governing, this phratry.

The information which we derive from this inscription and the authorities I have mentioned is, that the *γεννῆται* were a body more widely removed from the individual, and more authoritative than the *φράτερες*, and therefore presumably having several *φρατρίαι* subject to them. There seems to me to be nothing in the texts, which have been quoted and requoted from the lexicographers, to disprove this.

<sup>4</sup> Töppfer's statement contradicting this (*Attische Gen.*, p. 16 nt) is quite arbitrary, he does not give his reasons.

I do not wish here to undertake the difficult task of discussing these statements.<sup>5</sup> I would only protest against Mr. Tarbell's identification of ὀργεῶνες and θιασῶται, which I think not justifiable, and against the apparently universal assumption, that in the passage of Philochoros, which he quotes (p. 148), the words τοὺς ὀργεῶνας κ. τ. λ. must be the object of the verb δέχεσθαι.

I have not been able to consult Szanto's article on this inscription. My only desire has been to point out that there has been too much theorizing in this matter and too little confession of ignorance, and that our only hope lies in adherence to the plain sense of inscribed texts.

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P. S.—I have not attempted to discuss the question, whether all the φράτρες were, *ipso facto*, γεννήται. Those who take the view, that they were not, might thus explain the Δεκελείων οἶκος. The Demotionidai had several phratries subject to them: these phratries were localized in different demes or groups of demes: in each of these localities, the Demotionidai had a religious sub-centre which was called οἶκος. In this case, the priest of the Δεκελείων οἶκος is perhaps not the same as the priest of the phratry.

Schöll's essay, *Die Kleisthenische Phratrien* (*Sitzungsber. der Bayr. Ak.*, 1889, II) is very interesting. His explanation of the appeal is much the same as Mr. Tarbell's.

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#### MR. TARBELL'S REPLY TO MR. PATON'S COMMENT.

The important point raised by Mr. Paton in the foregoing contribution concerns the relation of gens and phratry. That there was some sort of intimate connection between the two is abundantly evident. The question is, did the phratry include the gens, or was the phratry (or a part of it) included by the gens? Mr. Paton pronounces for the latter alternative. Apart from the inscription under discussion, the evidence for this view reduces itself, on examination, to the order in which the witnesses are called in Demosthenes LVII. The

<sup>5</sup> No one should cite such authorities, without giving some account of their sources. American and English scholars shun *Quellen-Kritik* for a bad and a good reason. It introduces a new difficulty, it opens a new door for arbitrary conjecture.